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2 A. Yes.

3 Q. How many times?

4 A. I couldn't say. I mean, we
5 discussed it during the -- you know, we
6 discussed it -- I can't discuss what we
7 discussed; right?

8 MR. BERMAN: He's asking you
9 how often. You can answer.

10 A. Oh. I don't know. Once or
11 twice. I don't know. Once or twice.

12 Q. Okay. Have you discussed the
13 deposition since June 28th with anybody
14 other than your attorneys?

15 A. Just my husband.

16 Q. Okay. Let me start by putting
17 in front of you three Exhibits, which are
18 all documents that were produced after the
19 first day of your deposition. The first
20 Exhibit is marked Fischman 788 through
21 Fischman 834, a collection of various
22 documents, which we'll talk about. The
23 second Exhibit is marked Fischman 835, a
24 single page. And the third Exhibit is
25 three pages marked Fischman 836 through

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2 Fischman 838. And the first two of those
3 Exhibits were produced to us on June 25th,
4 2021, and the third was produced on July
5 16th, 2021.

6 MR. FORTINSKY: Frances, how
7 are we proceeding with marking
8 Exhibits under the circumstances with
9 you not being present here? Is there
10 a protocol that your firm generally
11 follows under these circumstances?

12 THE REPORTER: You can just
13 deem them marked and describe what
14 they are on the record.

15 MR. FORTINSKY: Okay. I'm
16 going to mark them in ink. Do you
17 know what Exhibit number we're up to?
18 Does anybody know what Exhibit number
19 we're up to?

20 MR. VALLI: I want to say 28
21 because 27 is the last thing in my
22 notes.

23 MR. FORTINSKY: Okay. Well,
24 why don't I -- I'll mark them
25 Exhibits 30, 31 and 32.

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(Whereupon, Fischman 788 through Fischman 834 was deemed marked as Exhibit 30 for Identification as of this date by the Reporter; Fischman 835 was deemed marked as Exhibit 31 for Identification as of this date by the Reporter; and Fischman 836 through Fischman 838 was deemed marked as Exhibit 32 for Identification.)

Q. Miss Fischman, do you recognize these three Exhibits to be the three sets of documents produced by your counsel subsequent to June 15th?

A. Yes, I do.

Q. These documents were not previously produced in the litigation?

A. No.

Q. Do you know why they weren't previously produced in the litigation? And if the answer is different for different documents, feel free to say so.

A. Okay. Exhibit -- what we'll talk about is 30 and 31 I had in my

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possession and didn't realize. Thought I had provided everything to counsel. I admit to being less than organized in my office. And, specifically, the documents 789 through 824 was a notebook that I had in -- I had it in a purse that was buried in my closet and didn't realize I had.

Q. How did you come to realize that you had it?

A. I went to use the purse and I discovered it.

Q. When did you go to use the purse?

A. Sometime in early spring this year.

Q. And what did you do then upon discovering you had this notebook in your purse?

A. I did a more thorough review of everything that I had in my possession and in my home office and in my bags at home, and I photocopied them and I sent them to my counsel.

Q. Tell me about that further

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2 review. What did that consist of?

3 A. I had a bunch of stacks of
4 papers in my bedroom, and I went through
5 all of the papers and asked if I had
6 already provided those to counsel, and he
7 said that he did not see them, so, I --
8 again, like I said, I went through the
9 different papers and I found a few
10 additional documents that I have not
11 previously produced.

12 Q. And were pages 824 through 834
13 among those papers? I'm referring to the
14 pages from Exhibit 30 marked --

15 A. Yeah, yeah. So, there were
16 just a few more things that I found that,
17 yeah, I had thought I had previously given
18 to counsel and I realized that I had not.
19 So, I was actually quite upset with the
20 fact that I had thought that all of this
21 was in an earlier production and realized
22 that it was not. In fact, we -- I had
23 talked to my counsel as if he already had
24 it in possession.

25 MR. BERMAN: I counsel the

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2 witness not to reveal any privileged
3 attorney-client communications, but
4 if you're asked nonsubstantive
5 questions, you may answer them.

6 Q. Had you looked in your home
7 office when you initially did the review of
8 documents that led to the earlier document
9 productions in the case?

10 A. In my earlier review, I was
11 focused on electronic documents, like all
12 of the job applications and things like
13 that, and, so, again, I admitted to not
14 being fully, you know, my home office not
15 being terribly well-organized, and, so,
16 there was a folder of documents that did
17 not get copied, you know, that is included
18 in that Exhibit 30 and 31.

19 Q. Were any of the documents
20 produced by you prior to June 15th from
21 sources other than electronic data?

22 A. I can't really recall, but I
23 think, yes, I had another file that was
24 photocopied that I personally photocopied
25 and that was produced.

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2 Q. And where had that been kept?

3 A. It had also been kept in my
4 home office in a stack of papers.

5 Q. But was produced prior to June
6 15th, 2021?

7 A. Yes.

8 Q. So, why was -- if you searched
9 for documents in your home office prior to
10 June 15th, why then did you not discover
11 some documents but you did discover others?

12 A. It was -- other than that
13 notebook, I knew about these documents and
14 I thought I had photocopied them and
15 provided them to counsel. So, the fact
16 that one file was left uncopied by myself
17 was a surprise to me --

18 Q. Okay.

19 A. -- and it was inadvertent.

20 Q. So, then, Exhibit 31, which is
21 produced separately from Exhibit 30, where
22 did you discover Exhibit 31 prior to
23 producing it?

24 A. I'm sorry. That would have
25 been produced at the same time. It was in

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2 the same folder.

3 Q. So, what you just testified to
4 applies also to Exhibit 31?

5 A. Yeah.

6 Q. Why was Exhibit 31 produced
7 separately from Exhibit 30?

8 A. I couldn't say. I didn't
9 produce it.

10 Q. Okay. Exhibit 32 -- you told
11 me that what you were just discussing
12 applied to Exhibits 30 and 31. What about
13 Exhibit 32? What prompted you to produce
14 this information in the past month?

15 A. So, Exhibit 32 was your -- we
16 got into the expenses and my income for
17 2018, '19 and '20, and I explained to you
18 that as an independent contractor I incur a
19 great deal of expenses associated with the
20 generation of my income as a real estate
21 agent, and that they were not insubstantial
22 expenses, and you asked me to give you a
23 list. So, I had this list at home that I
24 had given to my husband for tax purposes,
25 and it explains in great detail the types

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of expenses that I incurred in those years.

Q. Okay. We'll come back to that.

A. Okay.

Q. Turning now to Exhibit 31.

A. Yes.

Q. Can you identify this document?

A. Yes. This is the --

MR. BERMAN: I object to form.

This is multiple documents. Do you
want to specify pages?

MR. FORTINSKY: No. Exhibit 31
is a single page, page 35.

A. This was the speech that Nick
Oliva said to me upon my termination at
approximately 9:30 in the morning on
January 30th, 2017.

Q. So, presumably --

A. It's a copy of the speech.

Q. Okay. And presumably you're
referring to the typewritten portion of
Exhibit 31?

A. Yes.

Q. Not the handwritten portion?

A. The second paragraph, yes.